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Families in Court: Closing Remarks

Honorable John F. Daffron, Jr.

This has been a good and exciting conference. There was a provocative admixture of sponsors. These competing organizations, sometimes friendly competitors, sometimes honorable protagonists, here, working together on a single significant project. This fact has been noted by many of you. In the hallways I have heard more than one allusion to the "lion and the lamb."

I have thought about it and concluded that maybe the "wolf and the rabbit" was a better analogy. You know the story about the man who was training the wolf and the rabbit to perform together. The wolf would come out on the stage, lie down, and the rabbit would jump back and forth across his stomach, and finally the wolf and the rabbit would lie down together, to thunderous applause. People were amazed by this and they asked, "How does he get a rabbit and wolf to perform and lied down together?" The trainer replied, "It's a simple thing. All we do is introduce them to each other and then we train them to perform together." He did say, by the way, that they frequently had to replace the rabbit.

Well, I think there is some good news. First, there are no rabbits at this conference, and even if there were, given the strengths and the contributions of the sponsoring organizations, no rabbits would need to be replaced here. Secondly, given the productive efforts, I'd like to tell you it's very likely we will all get together again.

I'd like to thank each of the sponsors, the Judicial College, the Council, the National Center, and the Family Law Section of the ABA, for its splendid cooperation and contributions to a successful conference. I also thank each of you for your cooperation and the prodigious work and accomplishments that have come from your efforts.

Now, what have we accomplished? Several things occur to me. First, I believe it's beneficial to have the sponsors, these venerable

organizations, here, together, working at the same time on the same project. I believe it's beneficial to bring together such a knowledgeable, dedicated and informed group of participants. This is probably the best conference I have attended. All of us have been to many conferences and, as you know, so often, there are many people who don't participate, who don't contribute. If you look into their eyes, no one seems to be at home. That is not the case here. I think it is significant and salutary that all of you have attended, and I thank each of you for your participation and your contributions to this undertaking.

As a culmination of the conference, in these past hours by your recommendations, you have fashioned an agenda that in the next few years can serve as a guide to how far we have come and how far we have yet to travel. I am concerned, however, that consistent with human experience, the warm camaraderie and the high sense of purpose developed here will simply dissipate.

I think my concern is best expressed in a novel I read twenty-five or thirty years ago, Irving Stone's *The Agony and The Ecstasy*. You may remember it was a biographical novel about Michelangelo. The City of Florence had commissioned the sculptor to create a work of art from a huge block of granite. Although he was paid a commission, he could not begin his task. As the city fathers pressed, he could not determine what his work would be. Finally, he concluded that the statue, the one that ultimately became his "David," should be the personification of the neoclassical man. Although the artist had determined the concept, he could not begin. He didn't know the pose or the size or the shape of the sculpture. Again the city fathers pressed him to complete the work but he could not get started, he could not get beyond the idea. Stone described the situation with this wonderful line, "A sense of direction gave way to an illusion of motion." That's what concerns me about this conference. Many of you have been involved with meritorious proposals that have simply gathered dust on shelves. My concern is that it not happen to the ideas and recommendations from the thoughtful and knowledgeable people gathered here.

I came to this conference, among other reasons, because in regard to families and courts, I was concerned, frustrated, and weary, and I suspect many of you share these feelings. I was concerned that in some few cases, the system, that is the court and allied services, have not been able to deal effectively with incidents of domestic violence swiftly, effectively, and humanely. I was frustrated with the limited

information and lack of services, the barriers between and within many courts, frustrated by the need to focus on the narrow issues of the case presented which sometimes has prevented or made it difficult to deal with the underlying problems of the family before us.

And I get weary, and I know you get weary. I get weary because of an apparent never-ending stream of insoluble cases with frustrated, overworked staff, and overworked counsel who allow what began as a simple dispute to grow into a Gordian tangle. I get weary with the criticism and the lack of public support from people who say and sadly, truthfully, "going to court just didn't solve the problem." And weariness turns to anger when we regularly behold man's inhumanity to man.

In response to these and other concerns, this conference has made suggestions and recommendations for more resources and personnel for courts. We have talked about the need for coordination of services, the consolidation of all cases dealing with a particular family, and a call to re-examine the terms of confidentiality requirements. Our recommendations call for a redefinition of the court's role and a reconsideration of the distinctiveness of family issues. These recommendations cry out for implementation. I heard it from individuals in the various discussion groups, and I have heard it collectively here in plenary sessions. The approach of holistic medicine is to treat the entire body rather than the injured part or the symptoms. Shouldn't we have a holistic approach to judicial intervention and treat the entire family? Our agenda and recommended practices say surely we must.

Collectively you have made many suggestions that are desirable and should be implemented. Some of the newer and more innovative suggestions I have heard this morning include:

- 1) Involving the public in defining or redefining the mission of the courts;
- 2) Resolution of more cases in community-oriented settings;
- 3) Enhancing the status of courts and court related-services by novel means including, for example, incentive pay;
- 4) The availability of federal funds for courts when state courts are significantly affected by the impact of federal laws and regulations.

Again, the concern that I have this morning as we collectively articulate these recommended practices is that the high purpose and sense of direction may give way simply to an illusion of motion. Don't let these salutary suggestions temper your sense of urgency to

implement these ideas. Let me give you a quote from Oliver Wendell Holmes which seems so appropriate here. Overlook, if you can, the tortured syntax and listen to the message, so redolent of passion, as he reminds us of our obligation.

Law is the business to which our lives are devoted and we should show less than devotion if we did not do what in us lies to improve it, and, when we perceive what seems to us the ideal of its future, if we hesitate to point it out and press toward it with all our heart.

We heard Paul Saffo, Sunday night, tell us that the nature of the American family is markedly different from that portrayed by Norman Rockwell. We heard that it is likely to change even further in the years to come. But, I suggest to you that it is undisputed, that it is above debate, that the family remains the basic building block of our society. The nature and quality of that society in the years ahead will be shaped by many forces. You, individually and collectively, must be part of those changing forces. You must take a leadership role, working to assist family blocks that have weakened to regain their strength and to protect individual family members when the family block has been cracked by violence. I urge each of you to take what we have learned here in Reno back to your home jurisdictions and continue to do all you can to assure that the next time we come together the measure of our progress will be greater than the distance we have yet to travel.

In conclusion, I cannot resist dipping into Tennyson. You remember Ulysses, the warrior king, who had traveled broadly, governed wisely and fought successful battles on the ringing plains of windy Troy. In the autumn of his years, he rejects the call to rest on his laurels and retire. Ulysses' response should be your justification and clarion call to implement these recommendations. You remember the line:

Come, my friends, 'tis not too late to seek the newer world.

There is your challenge from the words of the 19th Century Victorian poet. I would hope you accept the challenge and respond in the argot of the late 20th Century and say, "Let's go for it."

Thank you very much. It has been a most productive conference, and I enjoyed meeting all of you.